



KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER	PAGE NUMBER
		01-118D	1 of 6
		ADMINISTRATION: Offender Claims Procedure for Property Damage/Loss or Personal Injury	
Approved By:  Secretary of Corrections		Original Date Issued:	03-30-16
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APPLICABILITY:	<input type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input checked="" type="checkbox"/> DEPARTMENT-WIDE
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POLICY STATEMENT

The purpose of this policy is to establish uniform guidelines for addressing and resolving offender claims of property damage or loss or personal injury caused by the negligence of the Department or any agency, officer, or employee thereof. These procedures shall be strictly followed, and all claims shall be investigated and processed in accordance with the time limits established in this IMPP. (ACI 4-4281)

Offenders who are on parole or otherwise serving a period of post incarceration supervision who wish to file a claim shall be permitted to do so in accordance with IMPP 01-117D, Claims Procedure for Department Employees and the General Public.

DEFINITIONS

None.

PROCEDURES

I. Notice and Mitigation

- A. Every offender shall report immediately every loss of or damage to the offender's own property.
- B. Every offender shall report any personal injury or medical problem immediately, according to procedures established by written order of the warden/superintendent.
 1. If a loss or damage is likely, the report shall be made as soon as possible after the injury or medical problem is known or should be known with reasonable effort.
 2. Offenders shall seek medical care whenever needed to help prevent or lessen loss or damage due to injury or medical problems.
 3. The warden/superintendent or designee shall conduct an investigation as soon as possible whenever loss or damage appears likely as a result of an injury or medical problem.

II. Claim Initiation

- A. Claims for property loss or damage shall be submitted within 15 working days of the discovery of the loss.
 - 1. The warden/superintendent shall not be required to accept any property loss or damage claim unless it is made within fifteen (15) working days of the discovery of the loss.
 - 2. The warden/superintendent shall not be required to accept any claim at all if both of the following conditions are met:
 - a. The claim is submitted later than one year and one day after the date of the loss, regardless of when the loss was discovered; and
 - b. The offender could have discovered the loss by exercising reasonable effort to know the status of the offender's property.
- B. Claims for personal injury shall be submitted within ten (10) calendar days of the claimed personal injury.
- C. Claims for property loss or damage or personal injury may be submitted to the facility and secretary of corrections.
 - 1. No reimbursement payment for an amount of more than \$500 shall be made on any claim.
 - 2. The Secretary may attempt to resolve claims in excess of \$500 by offering payment at an amount equal to or less than this maximum amount.
- D. The "Property Damage/Loss or Personal Injury Claim Form" (Attachment A, Form #01-118D-001) shall be used for all claims in which the offender claims property damage or loss or personal injury.
 - 1. The warden/superintendent shall ensure that claim forms are available to all offenders through unit team personnel.
 - 2. An offender filing a claim with the Secretary of Corrections shall obtain a claim form from the unit team, complete Section I of the appropriate form, and return the form to the unit team.
 - 3. The warden/superintendent shall ensure that the unit team assists the offender in submitting a claim by providing information and any necessary claims forms.
 - 4. All claims shall be made under oath and notarized.
 - 5. The unit team shall provide the offender with a receipt or a copy of the form indicating on it who received it, from whom, and the date received.
- E. The completed form and any supporting documentation shall be submitted to the warden/superintendent or designee within forty-eight (48) hours of receipt, excluding Saturdays, Sundays and holidays.
- F. Each claim shall be assigned a unique number, which shall be shown on the form.
 - 1. Each facility shall establish and maintain a claims log showing the unique number assigned to the claim and the date the number was assigned.
- G. The warden/superintendent or designee shall enter such claims into the applicable adult or juvenile Offender Management Information System.

III. Investigation and Decision

- A. The warden/superintendent shall assign the claim for investigation as soon as possible. The following actions may be taken in the investigation of all claims:
 - 1. Interview the offender making the claim;
 - 2. Interview officers and employees who may be involved or have information regarding the claim;
 - 3. Interview other witnesses who may have information regarding the claim;
 - 4. Review appropriate records, reports, and logs pertaining to the claim; and
 - 5. Submit copies of all records, reports, logs, and statements with the investigation report on the claim.
- B. This investigation shall be completed within thirty (30) calendar days after receipt of the claim.
 - 1. The investigation may be extended by the warden/superintendent for an additional twenty (20) calendar days for good cause.
 - 2. The offender shall be notified in writing of the reason for any extension.
- C. Upon receipt of the investigation report, the warden/superintendent shall make either a decision or a recommendation regarding the disposition of the claim.
 - 1. The warden/superintendent shall serve as the Secretary's approving authority (designee) for claims for which payment of fifty dollars (\$50.00) or less is authorized.
 - 2. For all other claims, the warden/superintendent's recommendation, the claim, and the investigation report with attachments shall be submitted to the Deputy Secretary of Facility Management, who shall serve as the Secretary's approving authority (designee) for claims for which payment in excess of fifty dollars (\$50.00) is authorized.
 - a. A decision on the claim shall be made by the Deputy Secretary of Facility Management within thirty (30) after receipt of the claim.
 - b. If granted, the claim shall be paid promptly according to procedures prescribed elsewhere within this document.
- D. For claims alleging damage, loss, or injury occurring at another facility, the warden/superintendent or designee of the facility where the claim was filed shall, within five (5) days, excluding Saturdays, Sundays and holidays, forward a copy of the claim to the warden/superintendent of the facility where the alleged damage, loss, or injury occurred. Any documentation that would reasonably be assumed to be relevant to the investigation of the claim shall accompany the claim.
 - 1. The procedures set forth in Sections III. A. through III. C. above shall then be followed at the facility where the alleged damage, loss, or injury occurred.
 - 2. The warden/superintendent where the investigation was conducted shall notify the warden/superintendent of the facility where the claim was originally filed of the action recommended and shall forward the claim and investigation report with attachments to the Deputy Secretary of Facility Management.
- E. For claims involving property that is lost or damaged during transport, the sending facility shall be responsible for reimbursement of approved claims.

- F. The Deputy Secretary of Facility Management or designee shall review the claim and all supporting documentation. The Deputy Secretary of Facility Management shall serve as the Secretary's approving authority (designee) for claims where payment is authorized.
- G. Claims received at the Central Office shall be processed and a determination made within thirty (30) calendar days after the date of receipt.

IV. Notification of Decision

- A. For all claims equal to or less than fifty dollars (\$50.00), the warden/superintendent, upon reaching a decision, shall establish a permanent file of the claim. For all claims up to \$500, the Deputy Secretary of Facility Management shall, upon reaching a decision, establish a permanent file of the claim, which shall be retained at the facility for three (3) fiscal years, then destroyed.
 - 1. If the claim is denied, the original shall be returned to the claimant. A copy of the Secretary's determination shall be retained in the claim file.
 - 2. If a settlement is approved, the claimant shall be required to sign Section V on the original claim form, providing his/her Social Security number and waiving any claims against the State, its agencies or employees arising out of the claimed incident.

V. Approval/Denial and Payment Processing

- A. If the claimant owes no unpaid court-ordered restitution, the warden/superintendent may elect to resolve claims in the following ways:
 - 1. If canteen supplies are available at the facility, the warden/superintendent may offer commissary products in amounts up to fifty dollars (\$50.00).
 - 2. If the claimant is eligible to have electronics, and if properly confiscated or donated electronics are available at the facility, the warden/superintendent may offer these products in amounts up to the claim amount.
 - a. When using electronics to resolve the claim, the warden can authorize claim amounts up to the cost of:
 - (1) **ADULT**: one new television; or
 - (2) **JUVENILE**: one new radio.
 - 3. If the offender claimant accepts commissary or electronics product as settlement:
 - a. The investigator shall describe the accepted commissary or electronics products in Section V on the original claim form;
 - b. The claimant shall be required to sign Section V on the original claim form, providing his/her Social Security number and waiving any claims against the State, its agencies or employees arising out of the claimed incident;
 - c. The designated staff charged with completing this settlement shall be notified; and
 - d. The facility shall maintain a file containing copies of all offender acknowledgments in writing of claims settled through the commissary or electronics receipts associated with the claims.

4. If the claimant refuses to accept commissary products or electronics as payment for a claim, the claimant shall be paid in the same manner as an offender who did not qualify to receive commissary product or electronics on their approved claims.
- B. All other approved claims accepted by the offender claimant shall be promptly paid from operating funds budgeted for the correctional facility at which the negligent employee was employed at the time of the damage, loss or injury.
 1. Such funds shall be used to pay any outstanding unpaid court-ordered restitution.
- C. If the settlement is rejected by the offender claimant, a copy of the offender's rejection statement shall be maintained in the facility file.
- D. For approved claims for which payment is to be made from facility operating funds, the facility or office business manager shall submit the appropriate voucher in SMART, the statewide accounting system, to the Office of the Chief Financial Officer for payment.
 1. Any payments to offender claimants shall be in the form of credits to offender trust fund accounts.
 2. No payments shall be made to an account of an offender who fails to supply a valid social security number.
 3. No payments shall be made to an account of an offender who fails to sign Section V on the claim form waiving any claims against the State, its agencies or employees arising out of the claimed incident.
 3. Pursuant to K.S.A. 46-920, if an offender owes an outstanding unpaid amount of court-ordered restitution, the facility business office shall withdraw from the offender's trust account as a set-off:
 - a. Money received by the offender from the Department as a settlement of a claim pursuant to this IMPP;
 - b. Money received by the offender from the State as a settlement of a claim against the State; and,
 - c. Money received by the offender from the State as the result of a settlement or final judgment in a civil action which the State or an employee of the Department was a named defendant and the State was found to be liable.
 4. When more than one State court order of restitution is outstanding and unpaid, moneys shall be applied to and paid for the restitution orders in the order in which the final judgment orders were entered.
 5. Moneys collected for payment towards outstanding unpaid restitution shall be forwarded by the facility business office to the appropriate district court clerk for disbursement.

VI. Claims Limitations and Responsible Parties

- A. Any offender may file a claim alleging property damage/loss or personal injury with the Secretary of Corrections, but only those claims may be paid where it is established that the loss or damage was caused by the negligence of the State or any agency, officer, or employee thereof.
- B. The Department's liability for property damage or loss shall be determined in accordance with IMPP 12-120 and/or other applicable facility and agency policies and procedures, taking into account the established value limits set forth therein and the age of the property involved.

1. In determining the depreciated value of property items included in offender claims, the Department shall use the following formula:
 - a. The original value of the item shall be established using the offender's receipt for the purchase of the item or, if registered on the personal property inventory, the declared value, per IMPP 12-120 and/or other applicable facility and agency policies and procedures.
 - b. The age of the item shall be determined from the receipt or initial entry into the offender's property inventory.
 - c. The depreciated value shall be determined by subtracting ten (10%) percent per year, up to a maximum of five years, from the original cost of the item, as follows:
 - (1) No depreciation for items less than 1 year old;
 - (2) 10% depreciation for items 1 year old but less than 2 years old;
 - (3) 20% depreciation for items 2 years old but less than 3 years old;
 - (4) 30% depreciation for items 3 years old but less than 4 years old;
 - (5) 40% depreciation for items 4 years old but less than 5 years old; and
 - (6) 50% depreciation for items 5 years old or older.
 - d. Depreciation shall not be prorated in-between years.
2. Perishable canteen or fundraiser items will be reimbursed at 100% of the original price for ninety (90) days after purchase. After 90 days, such items will be considered to have no value and will not be reimbursed.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

K.S.A. 46-907, 46-913, 46-920, 46-922
K.A.R. 44-16-102, 44-16-105
IMPP 01-117, 12-120
4-4281

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Property Damage/Loss or Personal Injury Claim Form	2 page(s)

PROPERTY DAMAGE/LOSS OR PERSONAL INJURY CLAIM FORM

Section I

Filed **AT** Facility No.:

Facility Initials:

Filed **AGAINST** Facility No.:

Facility Initials:

(Refer to PLC coding manual for facility no. & initials)

Name of Claimant (Last, First, MI):

KDOC Number

Type of Claim (circle one) :

Lost Property

Damaged Property

Injury

Amount of Claim:

Date of Loss Damage, or Injury (MO/DAY/YR):

Where Loss, Damage, or Injury Occurred:

If occurred in cellhouse, enter cellhouse/room number: _____

Otherwise, circle one of the following:

Mailroom

R&D

Central Property

Laundry

Gym

Dining Room

Other Location

NATURE OF CLAIM (Set forth detailed facts, including date of loss, damage or injury, how it occurred, place of occurrence, how you claim institution or employee was negligent, and amount of the claim.):

I am aware that presenting a false claim may result in penalties (under K.S.A. 75-7501 et seq., K.A.R. 44-12-101 et seq., etc.), and I declare (or verify, certify or state) that the foregoing is true and correct to the best of my knowledge, understanding, and belief.

Claimant Signature:

Date:

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

Received from Offender/Claimant:

Date:

Time:

UT Name (print):

UT Signature:

Claimant Initials:

Section II

Received by Warden/Superintendent on (MO/DAY/YR):

Facility Log No. Assigned:

Investigation Report:

Date (MO/DAY/YR):

Investigator Name (print):

UT Member or Investigator Signature:

Section III

Warden/Superintendent's Findings:

Warden/Superintendent's Recommendation: (circle one)

01-Approved for same amount
02-Approved for lesser amount of _____
03-Disapproved
04-Claim Withdrawn

Date (MO/DAY/YR): _____ | Signature - Warden/Superintendent or Designee _____

Section IV

Date Received by Central Office (MO/DAY/YR):

Secretary's Response:

Secretary's Recommendation: (circle one)

01-Approved for same amount
02-Approved for lesser amount of _____
03-Disapproved
04-Claim Withdrawn
10-Held pending submission of supplemental data

Date (MO/DAY/YR): _____ Signature - Secretary or Designee _____

Section V

Offer of Settlement (STAFF USE ONLY):

CLAIMANT MUST COMPLETE THE FOLLOWING IF PAYMENT IS TO BE AWARDED

I agree to accept the above offer as full and final settlement of this claim against the State of Kansas and any individual, employee or agent thereof, and I waive any claims against the State, its agencies or employees arising out of this incident.

Date: _____ | Claimant Signature: _____ | Social Security No.: _____

NOTE: This claim cannot be processed and paid by the Division of Accounts and Reports unless the claimant has disclosed his/her social security number. Any payments to offender claimants shall be in the form of credits to offender trust fund accounts.

Action by Accounts & Reports: **Paid** _____ **Not Paid** _____